

Energy Policy Review Commission - Unofficial Minutes

Wednesday July 17, 2013

2:00pm – 4:00pm

Executive Office of Energy and Environmental Affairs

2nd Floor Conference Room A

Members in Attendance:

Robert Kaufmann	Boston University
Rob Calnan	Calnan's Energy Services
Tom Regh	Progressive Energy Services
Sandra Merrick	AGO

Others in Attendance:

Barbara Kates-Garnick	EEA
Martha Broad	MassCEC
Nathan Phelps	DPU
Lauren Farrell	EEA
Hinna Upal	EEA
Rita Carvalho	Action Inc.
Andrew Goldberg	AGO
Caroline Kelly	Office of Rep. Beaton
Jed Nosal	Brown Rudnick
Jodi Hanover	Rich May, P.C.
Justin Lukoff	EEA

Documents Discussed:

- Agenda
- Draft Appendix
- Professor Kaufmann's Submission
- Draft Procedural Schedule

Undersecretary Kates-Garnick called the meeting to order at 2:07pm.

Introduction

Undersecretary Kates-Garnick welcomed the Commission members and meeting attendees and started the introductions around the room. She noted that Ms. Merrick urged a procedural schedule. She said the first issue under housekeeping is the notion of bios and asked if the Commission members want to include their bios in the report or add their appointer's information. Ms. Merrick said that she did not want her bio in the report but perhaps the appointers' bios can be included. Mr. Regh said he does not have strong feelings either way and if a member is against it then the bios should be left out. Professor Kaufmann said it does not matter to him. Undersecretary Kates-Garnick said the decision is up to the Commission.

Undersecretary Kates-Garnick noted that a draft appendix had been sent out to the Commission members. She said that before the meat of a report, a very full comprehensive appendix is necessary. She said she felt it wasn't necessary to put the enabling legislation, public comment, and presentations

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in the report right now, however ultimately those documents would be fully included when the report is sent to the Legislature. She asked the Commission members for perspective on how to deal with the report positions as people have spent a lot of time on them. Ms. Merrick said she wants to include the 2 OMB circulars she included with her position. She said the circulars were a reg analysis and a cost/benefit analysis. Ms. Upal asked if the circulars should be included under the AGO position or the whole report. Mr. Regh asked Ms. Merrick if she would clarify the OMB circulars. Ms. Merrick said OMB is the Office of Management and Budget. She said she suggested the circulars to the Commission to look at the rigorous cost/benefit analysis and the reg analysis. She said the circulars are federal guidance used to analyze programs. Mr. Regh asked if they are specific to Massachusetts. Ms. Merrick replied that they are not specific to Massachusetts. Ms. Upal expressed concern that circular A-94 was not applicable to energy. Ms. Merrick said the circulars give many examples of analyses of which many are environmental examples. Ms. Upal said she remembers reading a list of bullet points where the circular A-94 states it is not applicable to federal energy management programs. She noted that the circulars can go in the AGO position section but wanted to flag the applicability issue. Mr. Regh asked if there were nationwide numbers in the circulars or if they were more procedural. Ms. Merrick said the circulars are procedural. Mr. Regh asked if that has been done by the Commission. Ms. Merrick said she felt it has not which is why it was suggested. Undersecretary Kates-Garnick noted the circulars are very large documents and asked if Ms. Merrick wanted to include them whole or as links in the report. Ms. Merrick said she feels the circulars should be printed out and included rather than links, but that decision is up to the Commission. Ms. Upal asked how many Ms. Merrick wanted to include in the report. Ms. Merrick said there are 2 circulars. Mr. Regh asked if the AGO is advocating for the Commission to do the analyses; he is confused why they would be included in the report. Ms. Merrick said a cost/benefit analysis is something the Commission should consider. Mr. Regh asked how intensive a cost/benefit analysis is and if the Commission could do one without outside help. Ms. Merrick answered that she does not feel an analysis could be done without a consultant. Undersecretary Kates-Garnick said that her understanding was that a cost/benefit analysis is something the Commission can suggest as a future action, however at this point the group does not have the resources to undertake that type of analysis. She noted that as the Commission starts to vote on action items and next steps, a cost/benefit analysis could be included in that section. Ms. Merrick said she felt that was fair, which is why she included those suggestions in her position originally. She continued that the Commission needs to decide whether they are going to tell the Legislatures how to do the analysis or just do the analysis as a Commission. She said that the Commission needs a consultant, was given the extension, and should use the circulars for an actual analysis. Ms. Upal noted that the Statute has the Commission meeting again in 2017.

Undersecretary Kates-Garnick noted that the extension request was approved by both houses but it is a part of the supplementary budget and has not been signed. Professor Kaufmann asked what the deadline was that the Commission asked for. Undersecretary Kates-Garnick noted the extension deadline was October-31. Ms. Merrick said that she thought the extension had been signed. Undersecretary Kates-Garnick replied that it has not been signed and asked the Commission on how to proceed. She asked if members wanted to include website links or full documents in the report. Professor Kaufmann noted that with his data he usually prefers to keep links for data sheets so in the Commission report, URLs should be used for data. Undersecretary Kates-Garnick noted that the OMB circulars will be printed out in full, as Ms. Merrick requested. Mr. Regh said he felt a link is fine as a reference along as there is supporting data with the link.

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Draft Report Overview and Discussion

Undersecretary Kates-Garnick asked if the Commission would like to include full printouts of the presentations and the information requests. Professor Kaufmann asked what is needed from the information requests and he just called people and they were very helpful. Undersecretary Kates-Garnick said he should note who he contacted and what the call was about. Ms. Merrick said she needs to see all underlying data. Professor Kaufmann said the Commission can see it all as it is included in his preliminary material, however he signed a Non-Disclosure Agreement (NDA) with ISO, Solar City, and Sun Run as the data is competitive and confidential. Ms. Merrick asked if the data could be shared with the rest of the Commission. Professor Kaufmann said he is not allowed to give all the information but he will go back and ask, and also ask if the data can be shown in graph form. Mr. Regh said he would be interested in seeing the totals. Professor Kaufmann said the totals are just the start and not necessarily what he wants to know; the data would be used to answer policy related questions. Ms. Merrick said the AGO would not be able to agree on any recommendations on data that they cannot see. Professor Kaufmann asked if the AGO could agree on his research if it appeared in a peer review scientific journal. Ms. Merrick said she would have to wait for the article to be released. Professor Kaufmann noted that an NDA has to be signed a lot of times to protect the data that is released. Ms. Merrick said the AGO has signed many NDAs but this is a Commission by legislation and she cannot agree on any recommendations without seeing the underlying data. Mr. Regh said he agreed that anything going out to the public should be vetted by the Commission. Ms. Broad asked for clarification on why this was an issue as she thought this was a part of Professor Kaufmann's personal section. Professor Kaufmann said his research is on the costs and benefits of subsidized PV in the State; there would be system wide benefits for all rate payers and one less power plant would be turned on. Ms. Merrick noted that would take a lot of PV. Professor Kaufmann said that it is not as much PV as one would think; PV power can induce a .2% reduction which would lower all bills. Undersecretary Kates-Garnick said she is unsure why the Commission is engaging on the NDA as Professor Kaufmann will present his data in his report and the Commission can vote on including his recommendations. She noted that Professor Kaufmann is not asking the Commission to vouch for his data. Mr. Regh said that Professor Kaufmann can include this data in his position section. Professor Kaufmann noted that this is not his opinion, it is an analysis. Ms. Merrick asked what the Commission would vote on then. She noted that Mr. Rio was unable to attend the meeting but said he would to all of his information requests and data included in the report. Professor Kaufmann said that if the Commission hired a consultant, they would also have to sign an NDA. Ms. Merrick said that NDAs can be signed on behalf of the AGO, for example, and the consultant would sign on behalf of the entire Commission. Professor Kaufmann said he would go back and ask about the NDA. Ms. Merrick noted that if Professor Kaufmann includes this data in his position, then there is no issue. Professor Kaufmann said he feels this research is important for the body of the report and would be saddened to see it put in the appendix of the report. Mr. Regh added that he felt the member positions should be included in the body of the report, not the appendix.

Undersecretary Kates-Garnick noted the Commission should go over the proposed procedural schedule. She said there is a lot more to write but will give the draft to the Commission by next week and the members should return with red lines. She said if there is a level of agreement by August-14, the report can be sent out for public comment; by September-14 the report can be sent to the Legislature. Ms. Merrick asked if the draft that will be sent out will include recommendations. Undersecretary Kates-Garnick said the draft includes the legal framework, the legislation, and positions of the parties. She noted the Commission needs to discuss the next steps and decide where there is consensus or disagreement. Mr. Regh asked what is considered consensus; is it majority or unanimous. Ms. Upal said the Commission does not have bi-laws but her understanding is there needs to be a quorum to say the

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vote is representative of the Commission. Undersecretary Kates-Garnick asked if the Commission felt that was okay. Mr. Regh said it is, if that is the rule. Ms. Merrick asked if the Commission voting on metrics, recommendations, and the next steps will be shown in the report. Undersecretary Kates-Garnick said it is up to the Commission. Professor Kaufmann said it was okay with him. Ms. Merrick said it is better for the AGO as she would like to note if and where the AGO voted against something.

Undersecretary Kates-Garnick said the report so far has been very factual and does not believe it has gone further than a factual description. Ms. Merrick asked who has been drafting the report. Undersecretary Kates-Garnick said it has been the EEA team drafting, which includes herself, Hinna Upal, Dan Burgess, and Lauren Farrell. She noted the drafting has taken longer than she originally thought as there is a lot of information that needs to be included. Ms. Merrick said the Commission will be granted the extension so they should have schedule going forward on that. Professor Kaufmann said he can write on subjects to be included in the report if given the outline. Ms. Upal said she had spoken to Ms. Merrick on that topic and a table of contents will be sent out to the members. Mr. Regh said he feels confident about the extension. He noted the proposed procedural schedule is very aggressive and that one week for the Commission to go over the draft is too short, therefore the entire schedule should be pushed back a week. Undersecretary Kates-Garnick said that seems fair and the schedule can be pushed back a week.

Mr. Regh asked if there is a version of the draft that can be sent out sooner than July-24. Ms. Upal said a table of contents will be sent out. She said the draft is similar to what the Commission has already been given, EEA is just trying to pull all of the information together. Mr. Regh said he would like to see what has been done over the last three weeks. Undersecretary Kates-Garnick said she is not comfortable sending out the draft yet. Mr. Regh asked if this is a DOER report or a Commission report. Undersecretary Kates-Garnick said the Commission does not have a consultant so someone had to put the pen to the paper. She said she wants the draft to be ready before it is sent out to anyone. Ms. Upal noted that the only part that has been expanded on is the legislative and programs sections. Professor Kaufmann suggested writing an introductory paragraph for each topic. Undersecretary Kates-Garnick said that is part of what EEA has been working on. Ms. Upal said that the more EEA can give the members, the better it will be for all. Ms. Merrick said the one thing she is interested in particular are the citations. She said that if information is being pulled in from the outside, there needs to be citations so everyone can know where the information came from. Undersecretary Kates-Garnick said footnotes have not been used a lot as more of the information has come from the presentations given throughout the meetings.

Undersecretary Kates-Garnick asked if Professor Kaufmann would like to go over his submission. Professor Kaufmann said his research is for the Commission to consider think about when making recommendations. He said prices and GHG emissions need to be reduced and the Legislation should look at both Methane and CO₂. He asked if it is possible to figure out weather related increases in prices by year. He noted that that it is only a small calculation but is willing to work with the utilities to do the calculations as it is important for the public to know. Mr. Calnan said he agreed that it is a great idea. Mr. Regh said if the price of electricity is known like the price of gas is, it would increase public awareness. Professor Kaufmann agreed, saying simple nudges work best.

Mr. Regh said he is not sure where he stands on the positions and the appendix. Ms. Upal said that some member positions are short while others are very long so the Commission can decide how to approach that issue when the draft is distributed. Mr. Regh said he feels that shortening the positions

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can lead to censorship. He said that his positions were lengthy but could not find a way to be concise; just because it is longer does not mean it should go into the appendix. Undersecretary Kates-Garnick said she sees the appendix as the meat and substance of the report, not necessarily delegating information to the back of the report. She noted that it is important to get a sense of the flow of the report but still allow the data to be included. She said that when she reads a report, she spends just as much time reading the appendix as she does the rest of the report. Professor Kaufmann offered a suggestion to have the vote (unanimous, consensus, minority) for each topic. He said every idea can make it into the report but the meat of the ideas is included in the report itself; the legislature can read it and can also see the minority vote. Mr. Phelps noted the report should be written with the audience in mind; who will read just the introductory paragraph versus which readers would go into all of the details. Mr. Regh said that the Legislature is largely unaware of energy issues so the Commission cannot hit them with recommendation without context; the report should assume the reader knows nothing, which is why his position was so long. Professor Kaufmann said that is hopefully what EEA is doing with the draft they are writing now. Undersecretary Kates-Garnick assured the Commission would be hearing from EEA shortly.

The meeting adjourned at 3:19pm.

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